

AMENDED IN SENATE AUGUST 6, 2012

AMENDED IN ASSEMBLY MAY 2, 2012

AMENDED IN ASSEMBLY APRIL 19, 2012

AMENDED IN ASSEMBLY APRIL 9, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 2552

Introduced by Assembly Member Torres

February 24, 2012

An act to amend and repeal Sections 23152 and 23153 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 2552, as amended, Torres. Vehicles: driving under the influence: ~~controlled substances~~. *alcoholic beverage or drug*.

Existing law prohibits a person who is under the influence of any alcoholic beverage or drug, or under the combined influence of any alcoholic beverage and drug, *or* who has 0.08% or more, by weight, of alcohol in his or her blood, or who is addicted to the use of any drug, to drive a vehicle. Existing law also makes it unlawful to drive under the influence and cause bodily injury to another person.

This bill would revise and recast these provisions.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 23152 of the Vehicle Code, as amended by Section 31 of Chapter 455 of the Statutes of 1995, is amended to read:

23152. (a) ~~(1)~~—It is unlawful for a person who is under the influence of any alcoholic beverage to drive a vehicle.

~~(2) It is unlawful for a person who is under the influence of any drug to drive a vehicle.~~

~~(3) It is unlawful for a person who is under the combined influence of any alcoholic beverage and drug to drive a vehicle.~~

(b) It is unlawful for a person who has 0.08 percent or more, by weight, of alcohol in his or her blood to drive a vehicle.

~~(1) For~~

For purposes of this article and Section 34501.16, percent, by weight, of alcohol in a person's blood is based upon grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath.

~~(2) In~~

In any prosecution under this subdivision, it is a rebuttable presumption that the person had 0.08 percent or more, by weight, of alcohol in his or her blood at the time of driving the vehicle if the person had 0.08 percent or more, by weight, of alcohol in his or her blood at the time of the performance of a chemical test within three hours after the driving.

(c) It is unlawful for a person who is addicted to the use of any drug to drive a vehicle. This subdivision shall not apply to a person who is participating in a narcotic treatment program approved pursuant to Article 3 (commencing with Section 11875) of Chapter 1 of Part 3 of Division 10.5 of the Health and Safety Code.

(d) ~~(1)~~—It is unlawful for a person who has 0.04 percent or more, by weight, of alcohol in his or her blood to drive a commercial motor vehicle, as defined in Section 15210.

~~(2) In~~

In any prosecution under this subdivision, it is a rebuttable presumption that the person had 0.04 percent or more, by weight, of alcohol in his or her blood at the time of driving the vehicle if the person had 0.04 percent or more, by weight, of alcohol in his or her blood at the time of the performance of a chemical test within three hours after the driving.

1 ~~(e) It is unlawful for a person who is under the influence of any~~
2 ~~drug to drive a vehicle.~~

3 ~~(f) It is unlawful for a person who is under the combined~~
4 ~~influence of any alcoholic beverage and drug to drive a vehicle.~~

5 SEC. 2. Section 23152 of the Vehicle Code, as amended by
6 Section 32 of Chapter 455 of the Statutes of 1995, is repealed.

7 SEC. 3. Section 23153 of the Vehicle Code, as amended by
8 Section 18 of Chapter 974 of the Statutes of 1992, is amended to
9 read:

10 23153. (a) ~~(1) It is unlawful for a person, while under the~~
11 ~~influence of any alcoholic beverage to drive a vehicle and~~
12 ~~concurrently do any act forbidden by law, or neglect any duty~~
13 ~~imposed by law in driving the vehicle, which act or neglect~~
14 ~~proximately causes bodily injury to any person other than the~~
15 ~~driver.~~

16 ~~(2) It is unlawful for a person, while under the influence of any~~
17 ~~drug, to drive a vehicle and concurrently do any act forbidden by~~
18 ~~law, or neglect any duty imposed by law in driving the vehicle,~~
19 ~~which act or neglect proximately causes bodily injury to any person~~
20 ~~other than the driver.~~

21 ~~(3) It is unlawful for a person, while under the combined~~
22 ~~influence of any alcoholic beverage and drug, to drive a vehicle~~
23 ~~and concurrently do any act forbidden by law, or neglect any duty~~
24 ~~imposed by law in driving the vehicle, which act or neglect~~
25 ~~proximately causes bodily injury to any person other than the~~
26 ~~driver.~~

27 (b) ~~(1) It is unlawful for a person, while having 0.08 percent~~
28 ~~or more, by weight, of alcohol in his or her blood to drive a vehicle~~
29 ~~and concurrently do any act forbidden by law, or neglect any duty~~
30 ~~imposed by law in driving the vehicle, which act or neglect~~
31 ~~proximately causes bodily injury to any person other than the~~
32 ~~driver.~~

33 ~~(2) In~~

34 ~~In any prosecution under this subdivision, it is a rebuttable~~
35 ~~presumption that the person had 0.08 percent or more, by weight,~~
36 ~~of alcohol in his or her blood at the time of driving the vehicle if~~
37 ~~the person had 0.08 percent or more, by weight, of alcohol in his~~
38 ~~or her blood at the time of the performance of a chemical test~~
39 ~~within three hours after driving.~~

1 (c) In proving the person neglected any duty imposed by law
2 in driving the vehicle, it is not necessary to prove that any specific
3 section of this code was violated.

4 (d) ~~(1)~~ It is unlawful for a person, while having 0.04 percent
5 or more, by weight, of alcohol in his or her blood to drive a
6 commercial motor vehicle, as defined in Section 15210, and
7 concurrently to do any act forbidden by law or neglect any duty
8 imposed by law in driving the vehicle, which act or neglect
9 proximately causes bodily injury to any person other than the
10 driver.

11 ~~(2)~~ ~~In~~
12 *In* any prosecution under this subdivision, it is a rebuttable
13 presumption that the person had 0.04 percent or more, by weight,
14 of alcohol in his or her blood at the time of driving the vehicle if
15 the person had 0.04 percent or more, by weight, of alcohol in his
16 or her blood at the time of performance of a chemical test within
17 three hours after driving.

18 *(e) It is unlawful for a person, while under the influence of any*
19 *drug, to drive a vehicle and concurrently do any act forbidden by*
20 *law, or neglect any duty imposed by law in driving the vehicle,*
21 *which act or neglect proximately causes bodily injury to any person*
22 *other than the driver.*

23 *(f) It is unlawful for a person, while under the combined*
24 *influence of any alcoholic beverage and drug, to drive a vehicle*
25 *and concurrently do any act forbidden by law, or neglect any duty*
26 *imposed by law in driving the vehicle, which act or neglect*
27 *proximately causes bodily injury to any person other than the*
28 *driver.*

29 SEC. 4. Section 23153 of the Vehicle Code, as amended by
30 Section 19 of Chapter 974 of the Statutes of 1992, is repealed.